

### **REMARKS**

Favorable reconsideration and allowance of this application are requested.

The allowance of claims 16-18 and the allowability of claims 12-13 and 15 are noted appreciatively by the applicant. As will become evident from the discussion below, following entry of this amendment, all claims pending herein are believed to be in condition for allowance.

#### **I. Request for Continued Examination**

As a procedural note, the present amendment is being filed concurrently with a formal Request for Continued Examination (RCE) under 37 CFR §1.114. Accordingly withdrawal of the "finality" of the March 22, 2006 Official Action is in order so as to allow entry and consideration of the amendments and remarks presented herewith.

#### **II. Claim Amendments**

By way of the amendment instructions above, independent claim 1 has been revised so as to emphasize that at least one traction-resistant fibre is *continuously* wound around the upper, lower and lateral surfaces of a nucleus of flexible material in the form of a flattened body so as to establish substantially radially oriented *continuous* windings about the lower and upper surfaces thereof.

Support for the fiber being "continuous" is found on page 3, line 34 bridging page 4, line 7, particularly at page 3, line 34 through page 4, line 2, where it is stated that:

"In the disc according to the present invention the windings running across the lower and upper side preferably form a part of a single long filament."

MARISSEN  
Serial No. 10/534,100  
May 23, 2006

Hence, from this disclosure, the skilled person is cognizant that the fibre windings according to the present invention are "continuous".

### **III. Response to Art-Based Rejections**

The Examiner persists in the rejection of claims 1-11 and 14 under 25 USC §102(e) as allegedly being anticipated by Trieu (USP 6,733,531).

The Examiner argues that the language of claims 1-11 and 14 fails to define the fibre as being continuously wound around each of the lower, upper and lateral surfaces forming substantially radially oriented continuous windings about the lower and upper surfaces of the flattened body. (Official Action dated March 22, 2006 at page 3, lines 4-7.)

By way of the amendment instructions above, however, such claims now clarify that the at least one fibre is *continuously* wound around the upper, lower and lateral surfaces of a nucleus of flexible material in the form of a flattened body so as to establish substantially radially oriented *continuous* windings about the lower and upper surfaces thereof. For the reasons advanced during prosecution to date, the bands/straps of Trieu '531 cannot anticipate or render obvious the continuous winding of the fibre employed in the artificial intervertebral disc of the present invention. As such, withdrawal of the rejection advanced under 35 USC §102(e) based on Trieu is therefore in order.

### **IV. Conclusions**

Every effort has been made to advance prosecution of this application to allowance. Therefore, in view of the amendments and remarks above, applicant suggests that all claims are in condition for allowance and Official Notice of the same is solicited.

**MARISSEN**  
**Serial No. 10/534,100**  
May 23, 2006

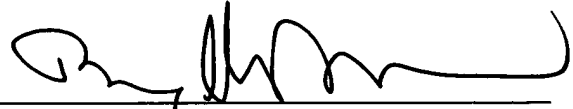
Should any small matters remain outstanding, the Examiner is encouraged to telephone the Applicants' undersigned attorney so that the same may be resolved without the need for an additional written action and reply.

An early and favorable reply on the merits is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Bryan H. Davidson  
Reg. No. 30,251

BHD:Imy  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100